

THE HON'BLE DR.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.10157 OF 2017

ORDER:

Heard learned counsel for petitioner/A4 of Crime No.540 of 2017 of P.S. Uppal, registered for the offences punishable under Sections 419, 468, 471, 474, 420 r/w 34 IPC, from the report of the 2nd respondent, dated 20.06.2017 and also heard the learned public prosecutor, representing the 1st respondent – State, before ordering notice to 2nd respondent and perused the grounds urged in the quash petition and the contents of the FIR and the other material on record and also perused the statement of the defacto complainant, recorded by the Investigation Officer on 20.06.2017 as L.W.1 in the course of investigation.

2. There is nothing to show the petitioner A4 is party to the so-called gift deed, much less, to say the gift deed with his connivance brought into existence by forgery for purpose of cheating to attract any of the offences of cheating or the offence of forgery for purpose of cheating and he is only attestor to the equitable mortgage created by A1 and others, leave about the expression of the three Judge Bench of Hon'ble Apex Court in ***M.L.Abdul Jabhar Sahib Vs. H.V.Venkata Sastri & Sons and others***¹, clearly propounded the law that an attestor from a mere attestation cannot be imputed with the knowledge of the contents of the document and mere attestation cannot impute to attribute

¹ AIR 1969 SC 1147

any offence against him and at best even taken for argument sake from the contention of the learned public prosecutor of L.W.1's statement shows the petitioner herein A4 was earlier tenant in the premises in question to presume, which cannot be legally drawn and even presumed it at best to say only offence under Section 471 IPC, which is with the punishment like in Section 465 IPC of maximum two years.

3. Having regard to the above, without prejudice to the available defenses of the accused, though there is therefrom nothing to interdict the investigation, there shall be stay of arrest of the petitioner, however, it will not prevent to secure his presence whenever required by police for purpose of said investigation.

4. Accordingly and with the above direction, this criminal petition is disposed of. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

27.10.2017
SS

DR.B.SIVA SANKARA RAO, J